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SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
1050 SEVENTEENTH STREET, N.W.  
SUITE 301  
WASHINGTON, D.C.

20036

(202) 393-2266

FAX (202) 393-2156

E-MAIL [alvordlaw@aol.com](mailto:alvordlaw@aol.com)

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

January 11, 2007

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Mortgage, dated as of January 11, 2007, a primary document as defined in the Board's Rules for the Recordation of Documents.

The name and address of the party to the enclosed document are:

Debtor: Babcock & Brown Rail Funding LLC  
885 Second Avenue, 49th Floor  
New York, NY 10017

[Secured Party: Bayerische Hypo-Und Vereinsbank AG, Agent  
FPA 4 Lease/Asset Finance  
Am Tucherpark 1 (FPA)  
80538 Munich, Germany]

Mr. Vernon A. Williams  
January 11, 2007  
Page 2

A description of the railroad equipment covered by the enclosed document is:

30 railcars: BNBX 120750 – BNBX 120769 and AOK 65415 – AOK 65424.

A short summary of the document to appear in the index is:

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$34.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Alvord', with a long horizontal flourish extending to the right.

Robert W. Alvord

RWA/sem  
Enclosures

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1-05 PM

SURFACE TRANSPORTATION BOARD

**MEMORANDUM OF MORTGAGE**

Memorandum of Mortgage, made and entered into as of January 11, 2007 between **BABCOCK & BROWN RAIL FUNDING LLC** (the "**Debtor**") and **BAYERISCHE HYPO-UND VEREINSBANK AG**, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "**Secured Party**"). Terms used in this instrument have the meanings assigned thereto in the Amended and Restated Security Agreement dated as of October 18, 2002 (as supplemented, including by Security Agreement Supplement No. 49 dated the date hereof, the "**Security Agreement**") between the Secured Party and the Debtor.

**WITNESSETH:**

The undersigned and the Secured Party have entered into the Security Agreement, by which the Debtor has granted a security interest in certain railroad equipment bearing reporting marks and road numbers as listed on Exhibit A attached hereto and in each lease referred to on Exhibit B attached hereto to the Secured Party in order to secure the Debtor's performance of its obligations as described in the Security Agreement.

IN WITNESS WHEREOF, the party hereto has caused this memorandum to be duly executed by its officer duly authorized as of the date and year first above written.

**BABCOCK & BROWN RAIL FUNDING  
LLC**By 

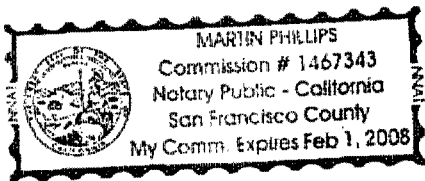
Name: Ross Sullivan

Title: Vice President

STATE OF CALIFORNIA           )  
  ) ss.:  
COUNTY OF SAN FRANCISCO    )

On January 10, 2007, before me, MARTIN PHILLIPS, Notary Public, personally appeared Ross Sullivan, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Martin Phillips  
Notary Public

Memorandum of Mortgage

Exhibit A  
to Memorandum of Mortgage

EQUIPMENT

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
1	20	2006	3281 CF Covered Hoppers, 286,000 GRL, AAR Car Type Code C112, built in 2006 by Trinity North American Freight Car, Inc.	BNBX 120750- 120769, inclusive.	None
2	10	2006	3281 CF Covered Hoppers, 286,000 GRL, AAR Car Type Code C112, built in 2006 by Trinity North American Freight Car, Inc.	AOK 65415-65424, inclusive.	None

**Exhibit B**  
**to Memorandum of Mortgage**

**LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS**

**Lease # 1**

Master Net Railcar Lease dated as of April 24, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., to the extent the same relates to the Equipment described under "Lease #1" in Exhibit A hereto.

Schedule No. 04 to Master Net Railcar Lease dated as of December 14, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., to the extent the same relates to the Equipment described under "Lease #1" in Exhibit A hereto.

Memorandum of Net Railcar Lease dated as of December 14, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., in respect of the Equipment described under "Lease #1" in Exhibit A hereto.

Certificates of Acceptance for Lease dated December 6, 2006, December 8, 2006, December 12, 2006, December 13, 2006 and December 14, 2006 from Superior Well Services, Inc. to Babcock & Brown Rail Funding LLC in respect of the Equipment described under "Lease #1" in Exhibit A hereto.

Letter Agreement for One Thousand (1000) Covered Hopper Rail Cars made and entered into as of August 19, 2005, by and between Trinity North American Freight Car, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption 'Lease #1' in Exhibit A hereto.

Warranty Bill of Sale dated as of January 11, 2007, from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC and each certificate of inspection and/or acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

Together with all substitutions, replacements and renewals of the property above described, and all property which shall hereafter become physically attached to or incorporated in the property above described, whether the Debtor now has rights therein or such rights shall hereafter be acquired by it.

Lease # 2

Lease Agreement dated as of November 1, 2006, by and between Babcock & Brown Rail Funding LLC and Hudson Baylor Corporation, to the extent the same relates to the Equipment described under "Lease #2" in Exhibit A hereto.

Schedule No. 01 to Lease Agreement dated as of November 1, 2006, by and between Babcock & Brown Rail Funding LLC and Hudson Baylor Corporation, to the extent the same relates to the Equipment described under "Lease #2" in Exhibit A hereto.

Memorandum of Net Railcar Lease dated as of November 1, 2006, by and between Babcock & Brown Rail Funding LLC and Hudson Baylor Corporation, in respect of the Equipment described under "Lease #2" in Exhibit A hereto.

Certificate of Acceptance of Railroad Cars dated January 9, 2007, confirming delivery dates of December 24, 2006 and January 3, 2007 from Hudson Baylor Corporation to Babcock & Brown Rail Funding LLC in respect of the Equipment described under "Lease #2" in Exhibit A hereto.

Letter Agreement for One Thousand (1000) Covered Hopper Rail Cars made and entered into as of August 19, 2005, by and between Trinity North American Freight Car, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption 'Lease #2' in Exhibit A hereto.

Warranty Bill of Sale dated as of January 11, 2007, from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC and each certificate of inspection and/or acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

Together with all substitutions, replacements and renewals of the property above described, and all property which shall hereafter become physically attached to or incorporated in the property above described, whether the Debtor now has rights therein or such rights shall hereafter be acquired by it.

**CERTIFICATION**

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: 1/11/07

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Robert W. Alvord